



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
First Regular Session

Senate: JUD DP 7-0-0-0 | 3<sup>rd</sup> Read 29-0-1-0-0  
House: JUD DP 8-0-0-0-0-0 | 3<sup>rd</sup> Read DP 57-0-3-0-0

---

## **SB 1036: setting aside conviction; certificate eligibility**

**Sponsor: Senator Kavanagh, LD 3**

**Transmitted to the Governor**

### **Overview**

Prohibits an individual who has previously received a certificate of second chance (Certificate) on the set aside of a felony conviction from receiving any additional Certificates.

### **History**

Current law allows individuals who have been convicted of a criminal offense to apply to the court to have the judgement of guilt set aside. A conviction that has been set aside must not be redacted or removed from the individuals record but must contain an annotation indicating that the offense has been set aside. The court is mandated to allow any victims to be present at the hearing if desired, record all reasoning regarding the application in writing and to review the following factors when determining whether to set aside the conviction:

- 1) The nature and circumstances of the offense;
- 2) The applicant's compliance with the conditions of probation, the imposed sentence and any state Department of Corrections' regulations;
- 3) Any prior or subsequent convictions;
- 4) The length of time elapsed since the completion of the applicant's sentence;
- 5) The age of the applicant at the time of the conviction;
- 6) The victim's input and the status of any applicable victim restitution; and
- 7) Any other relevant factors.

A set aside conviction may still be:

- 1) Used as a conviction if the conviction would be admissible had it not been set aside;
- 2) Alleged as an element of an offense;
- 3) Used as a prior conviction;
- 4) Pleaded and proved in any subsequent prosecution of the individual by this state or it's political subdivisions for any offense; and
- 5) Utilized by the Department of Transportation to enforce specified offenses, as if the judgement of guilt had not been set aside.

Statute requires a court that grants an application to set aside judgement to include a Certificate if:

- 1) The individual has not previously received a Certificate;
- 2) The offense was a misdemeanor;
- 3) The offense was a class 4, 5 or 6 felony and a minimum of two years has passed since the individual fulfilled the conditions of probation or the sentence; or
- 4) The offense was a class 2 or 3 felony and a minimum of five years has passed since the fulfillment of the conditions of probation or the sentence.

The Certificate releases an individual from any barriers resulting from the set aside conviction while obtaining an occupational license under A.R.S. Title 32. Additionally, a Certificate restores

the individual's right to possess a firearm and provides the individual's employer and other entities with protections pursuant to [A.R.S. § 12-588.03](#) ([A.R.S. § 13-905](#)).

**Provisions**

1. Makes an individual who has previously received a Certificate on the set aside of a felony conviction ineligible to receive an additional Certificate. (Sec. 1)
2. Specifies that *felony conviction* includes multiple felony convictions resulting from the same act or course of conduct. (Sec. 1)
3. Makes technical and conforming changes. (Sec. 1)

Prop 105 (45 votes)     Prop 108 (40 votes)     Emergency (40 votes)     Fiscal Note